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TOM LYTHGOE, CHAIR

KEN WEBER

DAVE KIRSCH

**PROCEEDING OF THE BOARD OF COMMISSIONERS  
COUNTY OF JEFFERSON, STATE OF MONTANA  
December 22, 2009**

**Present:** Commissioners Lythgoe, Weber and Kirsch; Greg Beebe, Deputy County Attorney; Harold Stepper and Mike Hoffman, County Planners; Joe Carter, Road Supervisor; Jeremiah Theys, Great West Engineering; Rick Abraham, Montana City VFD; Shelby Goodman, Race to the Sky; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Ed McCauley, John Heide, Fred Feller, Robert Nevin

**MINUTES**

Commissioner Lythgoe moved to approve the minutes of November 24. Commissioner Kirsch seconded. The motion carried.

Commissioner Lythgoe moved to approve the minutes of December 1. Commissioner Kirsch seconded. The motion carried.

**CORRESPONDENCE**

Commissioner Lythgoe noted the receipt of the agreement with FWP for the Piedmont Pond FAS and the MOU with Community Development Board. Commissioner Weber moved to sign the MOU between Jefferson County and the Whitehall Community Development Board. Commissioner Lythgoe seconded. The motion carried.

Commissioner Weber moved to sign the Piedmont Pond Trail Cooperative Agreement with FWP to facilitate a trail out at the Piedmont Pond. Commissioner Kirsch seconded. Commissioner Weber stated that over the years a group of citizens from Whitehall worked with Fish, Wildlife and Parks to develop a pond outside of Whitehall on Piedmont. It is a fishing access site. At the same time, there has been a group of people who have been working to develop a trail system in the Whitehall area. The motion carried.

**CALENDAR REVIEW**

12/23 Road trip with Judge Tucker regarding RSID protest – 1:45

## **COMMISSION REPORTS**

### **WATER AND SEWER PROJECTS**

Commissioner Lythgoe reported that the Commissioners met with Great West Engineering on Monday to strategize and develop district boundaries for two water and sewer districts, one in Clancy and one in Montana City. Great West will be developing maps and will contact the Commission to set up a future meeting.

### **PROPOSED CELL PHONE POLICY**

Commissioner Weber reported on a meeting held the previous day regarding cell phones and the taxable benefit that the IRS wants to attach to cell phones.

## **SUBDIVISION REVIEW**

### **REQUEST FOR TIME EXTENSION OF PRELIMINARY PLAT APPROVAL – TIMBERLINE RIDGE MINOR SUBDIVISION**

Mike Hoffman, County Planner, presented the Commission with a letter from the developer requesting a one-year time extension.

Commissioner Weber moved to grant a one year time extension. Commissioner Kirsch seconded. The motion carried.

### **SUBDIVISION IMPROVEMENT AGREEMENT – VALLEY VIEW MINOR SUBDIVISION**

Mike Hoffman presented the Commission with information related to a subdivision improvement agreement requested by the developer of the Valley View minor subdivision. He presented a letter outlining the cost to bring the road up to county standards, a letter from the project engineer and an irrevocable letter of credit in the amount of \$13,425.00 with an expiration date of May 22, 2010.

Mike recommended that the subdivision improvement agreement be approved, with an expiration date of April 22, 2010.

Robert Nevin stated that he lives next to the subdivision. People had started to use the new road, but then had to stop because the road has too many washboards. People have gone back to using the old road, which was supposed to be blocked off. Also, there were supposed to be a four-way stop at the intersection, but the signs are not there. Mike stated that there was some talk of closing the old road, but no one could endorse this as it is a public road. As far as the improvement of the existing surface, this should be taken care of when they do the final improvements to the road, adding another three inches of gravel.

Commissioner Weber asked if there is a lack of signage. Mike stated that this is probably correct. Commissioner Weber asked if the signs should be bonded as well. Mike stated that the subdivision doesn't have final plat approval yet. This is on the agenda for today, but the developer isn't quite ready yet.

Joe Carter, Road Supervisor, stated that the Road Department is very aware that the surface course is not on the road at this time and that the road mix needs binder. Regarding the stop signs, he thought that it was to be a three-way stop. Either way, the developer needs to get the signs up, as well as road name signs. Mike stated that the conditions of approval call for a four-way stop.

Commissioner Weber moved to enter into the subdivision improvement agreement for the Valley View subdivision, with the stipulation that Mike contact the developer to make him aware that the stop signs need to be installed before he comes in for final plat approval. Commissioner Lythgoe seconded. The motion carried.

### **ITEMS FOR COMMISSIONERS ACTION OR REVIEW**

#### **BID OPENING – QUAINANCE LANE BRIDGE REPLACEMENT**

Jeremiah Theys, Great West Engineering, stated that the bids should acknowledge addendum #1 and have bid bond enclosed. Three bids were received as follows:

Mark Buck Construction	\$120,980.00
Advanced Earthworks Inc.	\$154,955.00
A.M. Wells	\$138,265.00

The bids will be given to Great West, who will review them for completeness and come back with a recommendation.

#### **DISCUSS AND DECIDE ON SUGGESTED MONTANA CITY FIRE DISTRICT – LEWIS & CLARK DIVISION**

Commissioner Lythgoe stated that this was presented and discussed at a meeting a couple weeks ago. Commissioner Lythgoe stated that he went through the minutes of the meeting where this was discussed and he personally feels that it is a good idea to enter into this agreement.

Commissioner Weber stated that it made sense in talking to them. It seems to be a progression of what we are trying to accomplish. The Montana City Fire District is one of the stellar districts in our area so having residents under such protection makes sense to him. Commissioner Lythgoe stated that if his memory serves him correctly, they are just dealing with one parcel at this time; most of the parcel is within Lewis and Clark County, with a small portion, and the access, being in Jefferson County.

Greg Beebe, Deputy County Attorney, stated that procedurally, if the Commission decides to go forward, the next step is to bring this before the Board of Trustees of the Fire District. On an affirmative vote from them, they would go into a consolidation plan which requires publication and a joint public hearing to express dissent. Commissioner Lythgoe asked if this would become a district or a division of a district, or how is it classified. Greg said that that in Lewis and Clark

County, they would create a district themselves, the Lewis and Clark County Division, which in and of itself is a district. The Montana City District is a District as well and after they went through this process they would be consolidated into one district.

Rick Abraham, Fire Chief of the Montana City Fire District, stated that he is a bit confused. They are already protecting, and being paid for, that parcel. This seems like an awful lot of hoops to jump through to continue with what they are currently doing. His question is if this doesn't go through, are they no longer protecting this parcel. Rick stated that he doesn't remember how many years ago it was, but when that subdivision was created joint council meetings were held in order to turn that subdivision over to Montana City because it makes sense. It is accessed off of South Hills Road and they were the logical entity to protect it. After that subdivision, they started to fill out and built homes that were accessed out of Lewis and Clark County, not off of South Hills Road. Lewis and Clark County took that section and basically de-annexed it from Montana City and put it back into Lewis and Clark County, leaving only the parcel that currently accesses off of South Hills Road. It is their understanding that this parcel was going to be divided and all would access off of South Hills Road. He doesn't understand why they have to create two districts and consolidate to keep doing what they are doing.

Commissioner Weber stated that according to the people who came from Lewis and Clark County, we have to have the paper trail to continue to do what we are currently doing. That is his understanding.

Greg stated that the concern of Lewis and Clark County is that they don't have the authority to access and then transfer the money to Jefferson County. Although what we are currently doing is legal, there needs to be some slight changes made. Commissioner Lythgoe stated that they are just trying to punctuate this via Montana Code. At the end of the day, the only thing that will change is that the Montana City Fire District will have one to three new voting members.

Rick asked what will happen if they decide not to go through with this. Greg said that nothing would change as far as fire protection, but only thing that will change is that Lewis and Clark County will not be billing for this.

Harold Stepper, County Planner, stated that for three parcels, it seems like a lot of paperwork. He asked why they can't just do a contract for services that could go on the tax bill.

Commissioner Lythgoe stated that he thinks that this is part of what Lewis and Clark has required of the developer so that he can get his subdivision approved. Rick stated that he would opt for the simplest solution. They aren't going to stop offering service.

Commissioner Lythgoe stated that initially this was not something that he was in favor of, but after listening to the testimony and reasons behind this, it makes all the sense in the world.

Commissioner Weber moved to enter into the MOU and plan for a Lewis and Clark Division of the Montana City Fire District and move forward with the annexation plan. Commissioner Kirsch seconded. The motion carried.

#### DISCUSS AND DECIDE ON USE OF LOWLAND ROAD FOR RACE TO THE SKY

Commissioner Lythgoe read a letter requesting to use county roads for the Race to the Sky. He asked Joe Carter, Road Supervisor, if he is familiar with the area. Joe stated that he is. Commissioner Lythgoe asked Joe if he is willing to plow out parking area. Joe agreed that they could do this.

Shelby Goodman presented the Commission with information regarding the race as well as a map of the race route. The rail bed is in question and he has been trying to get information, but hadn't been very successful. He did finally get approval to use the rail bed. There will be flaggers and signage will be placed in advance of the race to make people aware that the race will be taking place.

Commissioner Weber stated that part of the concern he has is that coming into Lockhart Meadows, there might be quite a bit of snowmobile traffic. Shelby stated that he has already been in contact with the snowmobile clubs. They couldn't do the race without them.

Commissioner Weber moved to grant the use of Lowland Road for the Race to the Sky; he feels that it would be appropriate to have them fill out an encroachment permit and waive that fee, as well as allow the road department to plow out a parking area at the corrals. Commissioner Kirsch seconded. The motion carried.

#### DISCUSS AND DECIDE ON STOP SIGN ON UPPER VALLEY ROAD AND HUBBARD LANE

Joe Carter, Road Supervisor, stated that he sent a letter to the Commission outlining what has happened. Commissioner Weber read the letter (on file in the Clerk and Recorder's office). Joe said that he and the Boulder road crew studied the traffic in the area and feel that the change is warranted.

Ed McCauley stated that he disagrees with what Joe did and what he said in the letter. There was no study, there has been no increase in traffic, and this is no different than any other road in the Boulder Valley. He doesn't agree that the road has changed to a "T"; it is still a sweeping left turn. There is no history of any accidents out there. For him personally, it means that he has to come to a complete stop while hauling a load, which isn't necessary. They did some work, made the road worse, now feel that a stop sign is needed. He doesn't know how this got changed without coming before the Commission. Ed presented a list of 13 signatures protesting the stop sign and requesting its removal.

John Heide stated that he didn't even know that the sign had been put up. It has been a yield sign for 66 years that he knows of, without an accident.

Fred Feller, road department, stated that about 4 years ago when they did the work and lifted the road. Prior to that, they were getting a lot of calls about how unsafe the intersection was. What Joe's letter didn't say is that you came into the intersection lower, so they not only built it up for

visibility and safety reasons, they decided under state provisions to bring it to a “T” intersection and add a stop sign to make it safer. The road department is currently dealing with unsafe intersection on Sloans Lane and Upper Valley Road.

Commissioner Lythgoe asked Joe if he did any traffic counts at the intersection. Joe said that they didn’t set up a traffic counter at the time because they didn’t want it to get torn up by the snow plows.

Commissioner Lythgoe asked Joe if he heard anything today that changed his mind. Joe said that Ed and John do have a point, there are a lot of yield signs, but the intersection has been changed and they need a controlled intersection. Then again, a yield sign is a method of control.

Commissioner Weber asked about the continuity argument and asked if we should be upgrading more yield signs to stop signs. Joe stated that as they go through upgrading some of these intersections, they will have to really look at the control measures on these intersections.

Commissioner Lythgoe said that as the road department upgrades some of these intersections decisions will have to be made regarding signs. He doesn’t feel that this necessarily needs to come before the residents and he feels that this can be left up to the expertise of the road supervisor and the road crew.

Commissioner Weber said that letter states that the sign was installed per MUTCD codes and asked if it addresses benefits of stop sign over a yield sign. Joe said that it doesn’t, it is based on conditions. The manual does state that both yield and stop are appropriate signs. Whenever redesign

Commissioner Lythgoe asked Ed and John how many trucks they have through that intersection. Ed said that he makes four to five trips a day. John stated that he makes four to five trips a week. Commissioner Lythgoe stated that one reason why the roundabout was put in at Montana City; it didn’t make sense for Ash Grove trucks to have to stop at the intersection between their pit and their plant.

Commissioner Weber moved to support the road crew decision and leave the signage as is. Commissioner Kirsch seconded. The motion carried.

#### RESOLUTION 49-2009 RESOLUTION TO CONSOLIDATE THE OFFICE OF COUNTY SURVEYOR WITH THE OFFICE OF COUNTY CLERK AND RECORDER

Bonnie stated that since their initial discussion, she has looked at the documents filed in her office and has spoken to the former Clerk and Recorder. She has determined that she probably already has the majority of the surveyor’s records from surveys prior to 1966, but they haven’t been kept in the appropriate books. If the Commission decides to move forward with the consolidation, she will be coming forward to ask for money so that she can purchase the appropriate books to file the surveys. A lot of what she thought were assessor documents are actually surveyor documents. Commissioner Lythgoe asked if we had a County Surveyor at one

time. Bonnie stated that Jefferson County had a surveyor up until 1966. At that point in time it was on the ballot but no one was elected to the office. She talked to the previous Clerk and Recorder who was here at that time and she said that to the best of her recollection, there was no one in the county who was a registered land surveyor who was willing to take the position. The Commission tried to fill the position but they couldn't find a surveyor to take the position because at that time the Commission would set the fees and salary of the surveyor and they could make a lot more money in private practice. The position was never filled, the Commission consolidated the position with another office and it just dropped off the books. It wasn't until she did the research for the MACo 100<sup>th</sup> anniversary celebration that we realized that the office really hadn't been dealt with. Commissioner Lythgoe stated that he looked through the MACo directory and he didn't see any surveyors listed. Bonnie stated that she knows in Gallatin and Cascade counties the office has been consolidated with the Clerk and Recorder. Commissioner Weber stated that the MCA doesn't require that counties have a County Surveyor, so that is most likely why the consolidations have been happening. He asked Bonnie if she is aware that she would have to go view any road abandonment or opening issues. Bonnie stated that she took a look at the law book and she is also aware that there is a section of law within the County Surveyor office that does say that the Road Supervisor can be the person who the County appoints, and in our case, this is how it happened prior to 1966. Commissioner Lythgoe stated that what the Commission has been doing is have the Road Supervisor and the Commissioner from the district view road together.

Commissioner Weber moved to adopt the resolution. Commissioner Lythgoe seconded. Commissioner Weber asked Bonnie if she has any idea what it will cost for the books. Bonnie stated that a representative from the company was in that morning and will be sending information and a cost estimate. She could also use records preservation funds.

The motion carried.

### **OPPORTUNITY FOR PUBLIC COMMENT**

Bonnie stated that regarding the Montana City Fire issue, Jefferson County already did a resolution to annex that portion into the Montana City Fire District. It was never finished on the Lewis and Clark County side. She talked to Greg Beebe as they finished the process today, and since we adopted that resolution she asked him to incorporate into whatever decision is made, that we either rescind that resolution within the new consolidation or whatever happens being done. we need to deal with that resolution because it is still on the books.

Commissioner Weber moved to adjourn. Commissioner Lythgoe seconded. The motion carried.

**MEETING ADJOURNED**

**ATTEST:**

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**BONNIE RAMEY  
CLERK AND RECORDER**

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**TOMAS E. LYTHGOE, CHAIR**

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**KEN WEBER, COMMISSIONER**

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**DAVE KIRSCH, COMMISSIONER**